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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,311	11/20/2001	Anuraag Agrawal	6541-59028	9516
7590	06/06/2005		EXAMINER	
KLARQUIST SPARKMAN, LLP			LE, NHAN T	
One World Center			ART UNIT	PAPER NUMBER
Suite 1600			2685	
121 S.W. Salmon Street			DATE MAILED: 06/06/2005	
Portland, OR 97204				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/989,311	AGRAWAL, ANURAAG
	<b>Examiner</b> Nhan T Le	<b>Art Unit</b> 2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 27 December 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 17-22 and 37-42 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 17-22 and 37-42 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date . . . .  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 17-22, 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Aravamudan et al (US 6,301,609).

As to claim 17, Aravamudan teaches a messaging method, comprising: selecting a message type for a message for delivery to at least one selected recipient (see col. 5, lines 15-31), evaluating application presence data (see col. 5, lines 32-51) associated with a recipient activity status record for an initiated application associated with the selected message type; and processing the message based on the evaluation (see col. 5, lines 52-67, col. 6, lines 1-31).

As to claim 18, Aravamudan teaches comprising obtaining the application presence data from a presence repository (see col. 6, lines 3-30).

As to claim 19, Aravamudan further teaches comprising obtaining the application presence data from an application server (see col. 5, lines 15-31).

As to claim 20, Aravamudan further teaches comprising delivering the message to the

user if the evaluation indicates that the recipient is available (see col. 9, lines 10-44).

As to claim 21, Aravamudan further teaches comprising discarding the message if the

evaluation indicates that the recipient is unavailable (see col. 8, lines 56-67, col. 9, lines 1-9).

As to claim 22, Aravamudan teaches comprising directing the message to a destination selected based on the evaluation (see col. 9, lines 10-44).

As to claim 42, Aravamudan teaches further comprising selecting a time interval, and updating the recipient activity status record based user access to the initiated application during the time interval (see col. 7, lines 41-67, col. 8, lines 1-4).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 37-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aravamudan et al (US 6,301,609) in view of yy (US 6,484,196).

As to claim 37, Aravamudan fails to teach wherein the selected application is at least one of a chat application and an instant messaging application. Yy teaches wherein the selected application is at least one of a chat application and

an instant messaging application (col. 5, lines 55-67, col. 6, lines 1-12).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of yy into the system of xx in order to provide users with many different features.

As to claims 38-40, Aravamudan fails to teach wherein the recipient activity status record is associated with how recently the initiated application has been accessed; wherein the recipient activity status record is associated with how often the initiated application has been accessed and wherein the recipient activity status record is associated with how often the initiated application has been accessed. Yy teaches wherein the recipient activity status record is associated with how recently the initiated application has been accessed; wherein the recipient activity status record is associated with how often the initiated application has been accessed and wherein the recipient activity status record is associated with how often the initiated application has been accessed (see col. 14, lines 16-67, col. 15, lines 1-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of yy into the system of xx in order to provide users checking the status of other users on the personal message board server.

As to claim 41, the combination of xx and yy teaches further comprising sending an alert to a user and updating the recipient activity status record based on a response to the alert (see yy col. 11, lines 40-64).

#### ***Response to Arguments***

Applicant's arguments with respect to claims 17-22, 37-42 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dodril et al (US 6,807,565) teaches instant messaging system using voice enabled web base application server.

Key et al (US 6,430,602) teaches method and system for interactively responding to instant messaging requests.

Carey et al (US 6,714,793) teaches method and system for instant messaging across cellular network and public data network.

Appelman et al (US 6,539,4210 teaches message application user interface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhan T Le whose telephone number is 571-272-7892. The examiner can normally be reached on 08:00-05:00 (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-7892.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nhan Le

Nguyen Vo  
5-27-2005

NGUYEN T. VO  
PRIMARY EXAMINER